

## NOTICE OF COMMENT PERIOD

The Nebraska Supreme Court appointed separate district court and county court Case Management committees in 2010 to review Nebraska trial court case progression standards and propose amendments to the current standards set forth at Neb. Ct. R. §§ 6-101 through 6-103. The committees were also asked to comment on the National Center for State Courts Model Time Standards. Each committee has submitted to the Supreme Court proposed sets of standards, and the Supreme Court seeks comment on both the committee recommendations and the National Center for State Courts Model Time Standards. In addition, amendments to Neb. Ct. R. §§ 6-101 through 6-103 have likewise been proposed to effectuate any changes in the standards.

The Supreme Court invites interested persons to comment on the proposed amendments to the case progression standards and court rules. Anyone desiring to comment on the proposed amendments should do so in writing to the office of the Clerk of the Supreme Court and Court of Appeals, P.O. Box 98910, Lincoln, NE 68509-8910, or via e-mail to [lanet.asmussen@nebraska.gov](mailto:lanet.asmussen@nebraska.gov) no later than February 1, 2013.

A copy of the proposed standards and rule amendments follows this page, or a hard copy may be obtained from the office of the Clerk of the Supreme Court and Court of Appeals upon request.

**§ 6-101. Time for disposition of cases in district and county courts.**

~~Trial or hearing on the merits of a case should be within the following time limits from date of filing:~~

**DISTRICT COURT**

<del>Appeals</del>	<del>3 months</del>
<del>Criminal Cases</del>	<del>6 months</del>
<del>Domestic Relations Cases</del>	<del>9 months</del>
<del>Civil Cases Nonjury</del>	<del>1 year</del>
<del>Civil Cases Jury</del>	<del>18 months</del>

**COUNTY COURT**

<del>Misdemeanor and Traffic Offenses Nonjury</del>	<del>60 days</del>
<del>Misdemeanor and Traffic Offenses Jury</del>	<del>6 months</del>
<del>Civil Cases</del>	<del>6 months</del>
<del>Preliminary Hearings</del>	<del>As soon as possible but no more than 30 days</del>

(A) Each district and county court judge shall adopt and implement procedures to comply with the standards established by this rule. Such procedures shall include, but not be limited to, the following:

(1) Early identification of cases that may be resolved without delay or that may be protracted, and a process whereby these cases are given special administrative attention when appropriate;

(2) Timeframes for the completion of critical steps in the litigation process, including discovery;

(3) Trial-setting procedures that schedule a sufficient number of cases to ensure efficient use of judicial resources while minimizing the numbers of cases that must be reset;

(4) Commencement of trials on a date certain, scheduled with adequate notice to all parties; and

(5) Firm, consistent procedures for minimizing continuances.

(B) Each member of the bar shall cooperate with the judiciary in meeting these standards.

(C) Cases shall be disposed of according to the following time standards:

**Final standards table to be inserted here**

**See Table Alternatives I and II below as proposals for amended  
case progression standards**

## Alternative I.

This Table uses National Center for State Courts (NCSC) Model Time Standards

	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
	<b>Standard 75% Disposed in</b>	<b>Standard 90% Disposed in</b>	<b>Standard 98% Disposed in</b>	<b>Excluded Time</b>
District Court Civil	180 Days	365 Days	540 Days	
Domestic Relations	120 Days	180 Days	365 Days	Mediation
Domestic Violence (POs)		10 Days	30 Days	
County Court Civil	60 Days	90 Days	180 Days	
Felony	90 Days	180 Days	365 Days	Warrant, Drug Court
Habeas & Post - Conviction			180 Days	
County Court Misdemeanor	60 Days	90 Days	180 Days	Warrant Drug Court
Traffic/Ordinance	30 Days	60 Days	90 Days	Warrant
Probate of Estate	360 Days	540 Days	720 Days	
Guardianship/Conserv			90 Days	

## Alternative II.

This Table uses the Case Management Committees' Recommendations

	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
	<b>Standard Disposed in</b>	<b>Disposed in</b>	<b>Disposed in</b>	<b>Excluded Time</b>
District Court Civil Non-Jury	NA	90% 1 year	98% 18 mos.	
District Court Civil Jury		90% 1 year	98% 18 mos.	
Domestic Relations	NA	50% 180 days	95% 1 year	Mediation
Post Judgment Motions— Modification & Post Convictions		50% 180 days	95% 1 year	
County Court Civil Non-Jury		90% 6 mos.	99% 9 mos.	
County Court Civil Jury		90% 12 mos.	99% 18 mos.	
Landlord/tenant	Restitution 99% in 14 days	90% 60 days Damages	99% 90 days Damages	
Small Claims			99% 60 days from Service	
County Court Protection Orders			99% 30 Days	
Felony	NA	90% 6 mos.	98% 1 year	Warrant, Drug Court
County Court Criminal Misdemeanor & Traffic	90% 3 months	95% 6 months	99% 9 months	Warrant, Drug Court Time from plea to sentencing

Guardianships/ Conservatorships Uncontested		90% 60 days	100% 120 days	
G/C Contested— Selection of Fiduciary		75% 90 days	100% 180 days	
G/C Contested Necessity of Appt.		75% 120 days	100% 240 days	
Probate-No Fed. Estate Tax		90% 12 Months	100% 18 months	
Probate with Fed. Estate Tax	80% 15 months	90% 18 months	100% 24 months or within 45 days of IRS closing letter/final order in litigation	

(1) Periods of time during which a warrant is outstanding shall be excluded when calculating the age of a case.

(2) Periods of time during which a defendant is in a court-supervised specialty court or program (e.g., drug, DWI, mental health, child support, domestic violence), from admission through exit, shall be excluded from the age of the case that precipitated entry into the specialty court or program.

(3) The period of time between entry of an order for a bankruptcy stay through the lifting of the stay shall be excluded when calculating the age of the relevant case.

(D) Definitions.

(1) Civil Case Types. Tort, contract, administrative review, and real estate cases filed in the district court, county court civil, and small claims trials de novo, and other miscellaneous actions filed in the districts.

(a) Filing: The date of the filing of the first pleading, the date of receipt of the case documents on a change of venue, or, for supplemental filings, the date the supplemental filing was initiated, for instance a motion for new trial is sustained, or a default judgment or structured settlement is set aside.

(b) Resolution: The date the trial court entered its judgment, the case is dismissed, the petition is withdrawn, the case is transferred to another court on a change of venue, a structured settlement is reached, or the case is otherwise disposed, whichever occurs first.

(2) Domestic Relations Case Types. Dissolution of marriage, legal separation, annulment, separate maintenance, URESA, adult abuse, motions to modify, motions for contempt in domestic relations cases, contested actions involving administrative support orders of the state department of social services, paternity, change of name, writs of habeas corpus in child custody cases, registration of foreign domestic relation judgments.

(a) Filing: The date of the filing of the first pleading, the date of receipt of the case documents on a change of venue, or, for supplemental filings, the date the supplemental filing was initiated, for instance a motion to modify is filed, a motion for new trial is sustained, or a default judgment or structured settlement is set aside.

(b) Resolution: The date the trial court enters its judgment, the case is dismissed, the petition is withdrawn, the case is transferred to another court on a change of venue, a structured settlement is reached or the case is otherwise disposed, whichever occurs first.

(3) County Civil Case Types. Tort, contract, administrative review, landlord-tenant, and small claims cases filed in the court.

(a) Filing: The date of the filing of the first pleading, the date of receipt of the case documents on a change of venue, or, for supplemental filings, the date the supplemental filing was initiated, for instance a motion to modify is filed, a motion for new trial is sustained, or a default judgment or structured settlement is set aside.

(b) Resolution: The date the trial court enters its judgment, the case is dismissed, the petition is withdrawn, the case is transferred to another county on a change of venue, a structured settlement is reached, or the case is otherwise disposed, whichever occurs first.

(4) Felony Case Types. Felony indictments and informations.

(a) Filing: The date of filing of the felony information or indictment or receipt of case documents on a change of venue or, for supplemental filings, the date the supplemental filing was initiated, for example a motion for new trial is sustained or a plea of guilty is withdrawn.

(b) Resolution: The date the jury reaches a verdict, the trial court enters a finding of guilt, dismissal, or incompetency, the prosecutor dismisses the case, the case is transferred to another county on a change of venue, or the case is otherwise disposed, whichever first occurs.

(5) County Court Criminal Case Types. Felony cases prior to the filing of the indictment or information, misdemeanor cases, serious traffic and serious watercraft cases, and misdemeanors.

(a) Filing: The date of the filing of the felony complaint or affidavit, misdemeanor information, or receipt of case documents on a change of venue or, for supplemental filings, the date the supplemental filing was initiated, for instance a motion for new trial is sustained or a plea of guilty is withdrawn.

(b) Resolution: The date the case is bound over, the preliminary hearing is waived, an indictment is filed, the trial court enters a finding of guilt, dismissal, or incompetency, the jury reaches a verdict, the prosecutor dismisses the case, the case is transferred to another county on a change of venue, or the case is otherwise disposed, whichever first occurs.

**§ 6-102. Time for disposition of probate cases. Measuring compliance with standards.**

~~Final disposition of probate cases should be within 1 year from filing except when a federal estate tax return is required, and in that event 18 months. A longer interval may be approved where deemed necessary because of extraordinary eventualities, such as exceptionally complicated discovery, stabilization or injury in personal injury cases, or settlement of financial affairs in complex cases.~~

(A) Compliance with these standards shall be based on the data collected by the office of State Court Administrator. Each judge shall be evaluated individually for compliance, and all cases must be assigned to an individual judge upon filing. Reports showing the achievement of the timeframes will be provided.

(B) The age of a case at resolution shall be used to determine compliance with the standard.

**§ 6-103. Implementation assistance.**

(A) The Office of State Court Administrator shall assist courts with implementing these standards. The assistance shall include, but is not limited to, the following:

(1) Provide management reports to assist judges in meeting standards;

(2) Provide information and education on effective case management.

**§ 6-1034. Time for disposition of juvenile cases.**

(A) Notwithstanding any federal or state law providing for a longer period, the juvenile shall not be held in detention for more than 48 hours without a probable cause hearing being conducted by the appropriate judicial authority.

(B) Adjudication hearings in dependent/neglect cases under Neb. Rev. Stat. § 43-247(3)(a) should be held within 90 days of filing of the petition, except in cases with exceptional complications, in which cases adjudication should be held within 180 days. Adjudication hearings in law violation cases should be held within 180 days of filing of the petition.

(C) A disposition hearing should be held within 60 days from the date of the adjudication hearing, unless good cause is shown.

(D) Review hearings for children in out-of-home placements should be held, on the record, every 6 months.